

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAMIAN BELANDER,

Petitioner,

v.

COREY FUHURE,

Respondent.

CASE NO. C23-6132 BHS-DWC

ORDER

THIS MATTER is before the Court on Magistrate Judge David W. Christel's Report and Recommendation (R&R), Dkt. 16, recommending that the Court deny pro se petitioner Damian Belander's 28 U.S.C. § 2254 habeas corpus petition, Dkt. 1, deny his request for a § 2253(c) Certificate of Appealability, and dismiss the case.

The R&R thoroughly details Belander's first-degree murder conviction, 385-month sentence, and his unsuccessful direct appeal. Dkt. 16 at 2–10. It addresses Belander's three grounds for habeas relief and concludes that he has not met his § 2254(d)(1) burden to demonstrate that the state court's adjudication "resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States." In

1 interpreting this portion of the federal habeas rules, the Supreme Court has ruled a state
2 decision is “contrary to” clearly established Supreme Court precedent if the state court
3 either (1) arrives at a conclusion opposite to that reached by the Supreme Court on a
4 question of law, or (2) confronts facts “materially indistinguishable” from relevant
5 Supreme Court precedent and arrives at an opposite result. Dkt. 16 at 12 (citing *Williams*
6 *v. Taylor*, 529 U.S. 362, 405 (2000)).

7 A district judge must determine de novo any part of a magistrate judge’s proposed
8 disposition to which a party has *properly objected*. It must modify or set aside any
9 portion of the order that is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a). The
10 district judge may accept, reject, or modify the recommended disposition; receive further
11 evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P.
12 72(b)(3).

13 A proper objection requires “specific written objections to the proposed findings
14 and recommendations” in the R&R. Fed. R. Civ. P. 72(b)(2). In providing for a de novo
15 determination, Congress “intended to permit whatever reliance a district judge, in the
16 exercise of sound judicial discretion, chose to place on a magistrate’s proposed findings
17 and recommendations.” *United States v. Raddatz*, 447 U.S. 667, 676 (1980) (internal
18 quotation marks omitted). Thus, the district court is required only to indicate that it
19 reviewed the record de novo and found no merit to the objections in order to summarily
20 adopt the R&R’s analysis. *United States v. Ramos*, 65 F.4th 427, 433 (9th Cir. 2023). The
21 district court is not obligated to “expressly address” every objection. *Id.* at 437.
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1 On April 19, 2024, Belander sought a 180-day extension of time to object to the
2 R&R's recommended denial of his § 2254 habeas petition. Dkt. 17. The Court granted
3 that request in part, giving Belander until July 5, 2024, to file his objections—far more
4 than the 14 days provided in 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure
5 72(b). Dkt. 21. Belander has not objected to the R&R, and he has not demonstrated (as he
6 must) that the R&R's legal conclusions are clearly erroneous or contrary to law. *See* Fed.
7 R. Civ. P. 72(a).

8 The R&R is **ADOPTED**. Belander's § 2254 petition is **DENIED**. The Court will
9 **NOT** issue a Certificate of Appealability for the reasons articulated in the R&R.

10 The Clerk shall enter a **JUDGMENT** and close the case.

11 **IT IS SO ORDERED.**

12 Dated this 19th day of July, 2024.

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15 BENJAMIN H. SETTLE
16 United States District Judge
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